

Tech Briefing on EA - Notes on This Morning's Call with Senators

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Notes on the Technical Briefing Provided to All Senators Regarding the Invoking of the Emergencies Act

Government Officials Present:

Public Safety Canada	Dominic Rochon	Senior Assistant Deputy Minister, National and Cyber Security Branch
RCMP	Dennis Daley	Assistant Commissioner, Contract and Indigenous Policing
Department of Finance	Isabelle Jacques	Assistant Deputy Minister, Financial Sector, Policy Branch
	Julien Brazeau	Director General, Financial Crimes and Security Division
	Richard Bilodeau	Director General, Financial Institutions Division
Justice Canada	Samantha Maislin Dickson	Assistant Deputy Minister, Public Safety, Defense, and Immigration
FINTRAC	Barry MacKillop	Deputy Director, Compliance Barry.MacKillop@fintrac-canafe.gc.ca
CBSA	Scott Harris	Vice-President, Intelligence and Enforcement Branch
	John Ommanney	Director General, Travellers Branch

- The session was moderated by Senator Gold.

- This was a conference call – the sound quality was poor – names of most Senators were inaudible, so are not included.
- There were no opening remarks; the moderator moved right to questions.

Q:

Tabling of regulations – some of the provisions, such as freezing of funds in bank accounts: do those come into effect right away or do the votes on the EA need to happen in the House and Senate first?

A:

(Dominic Rochon) The provisions of both the regulations and the economic measures came into effect right away when they were published. Isabelle Jacques from Finance confirmed.

Q:

How do EA conditions meet Charter threshold?

A:

(Justice): The GiC must believe on reasonable grounds there is a threat to security, that there is potential for sabotage, espionage, activities detrimental to Canada, Canada's economic prosperity, democratic institutions, etc. Regarding the Charter, as with all laws, they are reviewed in its context. Although the old *War Measures Act* was never reviewed on that basis, this one is. All laws and regulations are reviewed to ensure they are compliant with the Charter.

Q:

Is there a Charter Compliance Statement?

A:

No.

Q:

When the government decided to invoke the EA, there were important changes in the field. Have changes in the field changed your evaluation?

A:

(Dominic Rochon) This evaluation will be done constantly following what we see in Canada. We have seen in certain places such as Coutts and Emerson and Windsor that the blockades have been lifted, although there are still threats in certain places and there are still demonstrations in Ottawa. Our evaluation will continue. The EA gives more authority but it is not necessary to use these authorities if local police forces can address the situation with their own authority. We created this law to give police services more tools to address the national security situation that we saw grow during these last weeks and that continue today. It is possible that things will end in a week or two and if the threat level is reduced and becomes calm, we can stop invoking the act before the 30 days.

Q:

National scope: it seems that now we are more concentrated on the demonstration in Ottawa – was there formal support from the Government of Ontario?

A:

The Act does not require formal support from provinces; it only requires consultation. A formal agreement would be required if an emergency were declared in one province. Since it is a national issue, we need consultation, which there has been. The consultation document that was tabled yesterday confirms this.

Q

Senator Quinn: Who will prosecute offences under the EA? Will it be a federal or provincial process? What level of government will apply the penalty and who will prosecute?

A:

(Dominic Rochon) Police of jurisdiction will place the fines. Following that, it would be whichever court would be responsible for prosecuting an unlawful act wherever it would occur.

Q:

Senator Quinn: When it comes to minor offences – are there any plans to apply the *Contraventions Act*?

A:

No

Q:

Why is this not under consideration?

A:

That Act is not in place at this time.

Q:

What is the parallel between the need for the EA in regard to the hardcore of the protests?

A:

(Dominic Rochon) The law allowing peaceful demonstration still exists and people can demonstrate legally. In the last few weeks – at the beginning we expected a peaceful demonstration but unfortunately the situation became more difficult. It became a hindrance, and elsewhere in the country we saw other demonstrations that blocked passage on bridges. After three weeks it became an issue of national security, which is why the EA needed to be invoked to give more authority to police services anywhere in Canada to meet needs and address the situation.

(Justice) Once demonstrations are no longer peaceful, different criteria are included to define what is outside a peaceful assembly. Part 2 says it's not legal to participate in a public assembly with certain criteria attached.

Q:

This is a national act, and demonstrators come from all over Canada. Do you have enough authority to intervene everywhere, such as from where these people come?

A:

(Dominic Rochon) The act provides supplementary authorities to police services everywhere in Canada. Although Police already have authorities, can use these additional ones to address situations where public access has to be limited. If they want to use supplementary authorities, they

can do so anywhere in the country. They are not forced to do so, but they have access to the different emergency measures in the regulations as well as the economic measures. There have been demonstrations that have disturbed the peace, but there is also the supply and financing of the demonstrations. The financing can occur anywhere in the country, so there is a decree on financial measures that can help. (Justice): The economic aspect is not linked to provinces – it is a federal act. The decree does allow action and covers banks that are regulated by the federal government even though they are provincial banks.

Q:

Police will be provide the vehicle and ownership information to insurance companies and banks – can we be assured that *Privacy Act* remains in place. Banking info: we would want this to be temporary and not permanent. Resolution speed with banks is incredibly slow. Errors can be made and can be expected where this action has had to be taken. There will be a need for those who are affected to get back to business and independence when this is over. Concern that the resolution process – in particular that related to crypto currency, is way too slow.

A:

(Finance) We have been in touch with banks and other institutions captured under the order and have been in discussions with insurance companies. In Section 3, the entity has the obligation to review actions they have to take, i.e., the bank must decide if it must suspend an account of an illegal blockader. But if the individual decides to leave the demonstration, then we expect them to go to the bank to advise they are no longer on the location. If the bank is satisfied, they can unfreeze the individual's account itself, or it can reach out to law enforcement to ensure the individual has left the illegal demonstration. Re: insurance – should they suspend the insurance of a trucker who has refused to leave – it's possible the vehicle will be taken to a safe location and the owner will have to arrange to get it back. Truckers are being given notice now to give them time to leave.

Q :

Are there any expectations to measure the performance of the review process? There is a lot of attention and anxiety around frozen accounts – historically, it's been a very long process to resolve issues like crypto. Regarding performance obligations – are there timeframes and resources to respond in a timely manner when mistakes are made?

A:

There is nothing in the order that specifies that but the discussions with financial and insurance sectors show they understand this is an extraordinary measure and they don't want to affect people if it's not necessary. There are daily calls with these entities to ensure these matters are being dealt with.

Q:

Now that the ambassador bridge has been opened up and things are being resolved in Coutts – we only have the problem in Ottawa now - so why do we have to adopt this Act? This will not be the only demonstration in Ottawa. Threats always exist. Can we be assured that EA measures will not be used on a regular basis for future demonstrations?

A:

(Dominic Rochon) We are not looking backwards. We analyzed the precise moment to determine the situation we were in. As time went by, the situation worsened constantly. There were

continuous blockades with the real possibility of violence toward people and essential infrastructure, there were negative impacts on the economy, on commercial partners (the U.Ss) and breaks in supply pipelines for goods and essential services – always with the potential rise in agitation and violence. So on Feb 14 the EA was invoked. The situation is complex. There are threats that the RCMP and the national security agencies are aware of. We have problems with the financing of these demonstrators – we don't know who exactly is financing them, but this has increased. The fact that we were able to unblock the bridge – there are now people ready to re-block the bridge. The rules of the emergency measures are now available to police across the country. If the situation calls for it, we have the ability to revoke the Act. We can't turn on/turn off act overnight. It was a difficult decision to reach, but it was reached at a point in time where Canada was facing all these threats.

Q:

Threats will always exist. Will the House have to re-authorize this? Where I feel uncomfortable is link to economic measures. Those who sent money to people three weeks ago, when the demonstration was still legal. I want to be reassured that those who gave money three weeks ago will not be impacted negatively now that Act has been invoked; that they won't be penalized.

A:

(Finance) We are targeting people who are acting now, not in the past. So if people sent money in good faith, they will not be implicated. It starts at moment when the decree goes into effect. Even for people who are acting now, when they stop acting, the measures will be dropped.

Q:

Senator Black: Concern that the orders were silent on the agricultural sector. Food security and meat packing plants – why were they not named or why was there no indication that these would be a concern?

A:

(Justice) Section 2 of the regulations does apply to interruption of trade, critical infrastructure, etc. – Section 6 authorizes the Minister of Public Safety to designate any place as one that would be covered in the Act. So if there were protests around meat packing plants, for example, the Minister could designate the area to be under EA protection.